

## REMARKS

In the above-identified Office Action the examiner rejected claims 1 and 6 under 35 USC 102(b) as anticipated by US Patent No.4,950,525 to Bailey ("Bailey"). The examiner rejected claim 2 under 35 USC 103(a) as being unpatentable over Bailey in view of US Patent No.5,821,316 to Ochi, et al. ("Ochi"). The examiner rejected claims 3-5 under 35 USC 103(a) as being unpatentable over Bailey in view of US Patent No. 5,714,223 to Araki, et al. ("Araki") or US Patent No. 5,988,822 to Abe, et al. ("Abe"). And the examiner rejected claim 7 under 35 USC 103(a) as being unpatentable over Bailey in view of US Patent No.5,941,655 to Jacobs, et al. ("Jacobs").

### REJECTION OF CLAIMS 1 AND 6 UNDER 35 USC 102(b)

The examiner rejected claims 1 and 6 under 35 USC 102(b) as anticipated by Bailey (Paragraph 11 of the above-identified Office Action). However, the also indicated that the 35 USC 102 rejection of claims 1 and 6 as anticipated by Bailey have been withdrawn. (Paragraph 2 of the same Office Action). Clarification on the record is requested.

In order to progress the examination applicant presumes herein that the rejection has been maintained for the reasons of record in Paragraph 11 of the above-identified Office Action.

Applicant respectfully submits that claim 1 and claim 6, which depends from it, are not anticipated by Bailey because Bailey's required additional structure is not encompassed by applicant's claims which read on a first coating comprising pigment and binder polymer in its essence applied directly to a road surface, reflective beads; and a clear coating, comprising binder polymer. Applicant respectfully submits that claims 1 and 6 are directed to a composite applied to a road surface and are not directed to the composite itself.

The examiner posits that additional layers between the road surface and the composite do not materially affect or alter the function of the

composite on the surface. The examiner's opinion in this regard is unsupported by Bailey or by any explicitly cited extrinsic evidence. Indeed, one skilled in the art would expect that any additional structure would require certain internal physical properties such as hardness, strength, and the like, so as not to impair the wear-resistant characteristics sought by applicant (Specification, page 2, lines 16-21) and, further, would also require a sufficient level of adhesion to both applicant's first coating and to the road surface in order to not materially affect or alter the function of the composite on the road surface. Applicant respectfully submits that there is no basis for concluding that additional layers between the road surface and the composite do not materially affect or alter the function of the composite on the surface.

Applicant respectfully submits that his claims 1 and 6 are not anticipated by Bailey and urges the examiner to withdraw this rejection.

#### REJECTION OF CLAIM 2 UNDER 35 USC 103(a)

The examiner rejected claim 2 under 35 USC 103(a) as being unpatentable over Bailey in view of Ochi.

The examiner states that Bailey discloses all the limitations of the claimed invention except for the binder glass transition temperature, a feature which the examiner states is taught by Ochi. Applicant respectfully submits that Bailey does not teach applicant's structure nor does he teach or suggest a modification to Bailey's structure and that the examiner has not met her burden to point to a clear and particular teaching within Bailey or Ochi to do so. Applicant further submits that there is no motivation within Bailey to delete a required part of his structure. Therefore, applicant respectfully submits that claim 2 is not obvious over Bailey in view of Ochi and urges the examiner to withdraw this rejection.

#### REJECTION OF CLAIMS 3-5 UNDER USC 103(a)

The examiner rejected claims 3-5 under 35 USC 103(a) as being unpatentable over Bailey in view of Araki or Abe.

The examiner states that Bailey discloses all the limitations of the claimed invention except for the visible light transmission of the clear coating, a feature which, it is proposed, is taught by the clear coatings of the retroreflective sheeting of Araki or Abe. Applicant respectfully submits that Bailey does not teach applicant's structure nor does he teach or suggest a modification to Bailey's structure and that the examiner has not met her burden to point to a clear and particular teaching within Bailey, Araki, or Abe to do so. Applicant further submits that there is no motivation within Bailey to delete a required part of his structure. Therefore, applicant respectfully submits that claims 3-5 are not obvious over Bailey in view of Araki or Abe and urges the examiner to withdraw this rejection.

#### REJECTION OF CLAIM 7 UNDER 103(a)

The examiner rejected claim 7 under 35 USC 103(a) as being unpatentable over Bailey in view of Jacobs.

The examiner argues that Bailey discloses all limitations of the invention except for the composite including an absorber such as talc and Jacobs discloses a retroreflective article comprising a base sheet including talc. Applicant respectfully traverses on the basis that Bailey fails to disclose all limitations of the invention as claimed. Claim 7, which depends from claim 1, excludes a composite wherein the first coating is not applied directly to the road surface. Nor has the examiner identified the disclosures in Bailey or Jacobs which would motivate one skilled in the art to make the combination. Therefore, applicant respectfully submits that claim 7 is not obvious over Bailey and in view of Jacobs and urges the examiner to withdraw this rejection.

Applicant respectfully requests the examiner to pass his claims 1-7 to allowance at this time. Applicant's agent is available in order to expedite the allowance of this case at 215-641-7822 or by FAX at 215-619-1918.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Ronald D. Bakule". The signature is fluid and cursive, with the first name "Ronald" being the most prominent part.

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Date: November 21, 2003

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CERTIFICATE OF MAILING

I hereby certify that the following correspondence is being deposited as first class mail with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated next to my signature below.

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Response

DATE: Nov, 21, 2003      SIGNATURE: *Donald D. Nakula*